(1)

C.F. 1091 Division Bench

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR;C.G.

W.P.(Habeas Corpus) no. 01 /06

Petitioner:

Narayan Das Sanyal @ Prasad Bijoy, aged 67 yrs., s/o late Shri Jyotirendra Nath Sanyal, C/o P-7, Senhati Co-operative Colony Ltd., Behala, Kolkutta-34, West Bengal.

P.R. No. 01/06 Y.S.J. 1.2.06
Presented on 3/1/06
dated

Versus.

Respondents:

1. State of Chhattisgarh, through Secretary to the Home Dept., D.K.Bhawan secretariate, Raipur, C.G.

2. State of Andhra Pradesh, through Secretary to the Home dept.. secretariate, Hyderabad, A.P.

WRIT PETITION (Habeas corpus) under Article 226 of The Constitution of India.

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri D.R. Deshmukh, J.

Writ Petition No. 01 OF 2006

PETITIONER Narayan Das Sanyal @ Prasad Bijoy, aged 67 yrs., S/o Late Shri Jyotirendra Nath Sanyal, C/o P-7, Senhati Co-operative Colony Ltd., Behala, Kolkutta 34, West Bengal.

Versus

RESPONDENTS

1. State of Chhattisgarh, through Secretary to the Home Dept., D.K. Bhawan secretariate, Raipur, C.G.

2. State of Andhra Pradesh, through Secretary to the Home dept. secretariate, Hyderabad, A.P.

Present:

Shri Bhishma Kinger, learned counsel for the petitioner.

Shri P.K. Verma, learned Addl. A.G. with Shri Utkarsh Verma, learned Dy. G.A. for the State/respondent No.1.

ORAL ORDER
(Passed on 10th of January 2006)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The allegation in the writ petition is that the detenue Narayan Das Sanyal was taken away from Raipur from his residence by Chhattisgarh Police on 28-12-2005 and that after 28-12-2005, his whereabouts are not known. In response to the notice issued by the Court, respondent No. 1 / State of Chhattisgarh represented by the Secretary to the Home Department has filed return. In the return, it is stated that on service of notice, they called for information from all the districts of State of

Chhattisgarh and it was found that the detenue is not detained or arrested by any authorities within the State of Chhattisgarh. Having stated that, the first respondent, in para 10 of the return, has stated that the State Government has received a radio message / fax message from the Director General and Inspector General of Police, State of Andhra Pradesh informing that the detenue was arrested on 03-01-2006 and he was produced before the jurisdictional Judicial Magistrate First Class, Kothagudem and the learned Magistrate has remanded him to the Police custody for a period of five days. The first respondent has enclosed a copy of the radio message / fax message and marked it as Annexure R-1/1. Although, learned counsel for the petitioner would contend that since State of Andhra Pradesh, which is arrayed as respondent No. 2 to the writ petition, has not chosen to file return, what is stated in para 10 of the return of the first respondent cannot be taken to be a true statement, we have no good reason to doubt the integrity of the statement made in para 10 of the return of the first respondent. The affidavit was sworn to by Shri P.S. Bara, Assistant Inspector General of Police. In addition, at the time of hearing, learned Additional Advocate General would also tell us that his client personally spoke to the Director General of Police, State of Andhra Pradesh and verified the facts stated in para 10 of the return. Therefore, it cannot be said that the detenue has been detained illegally and without authority of law. The petitioner can work out his legal remedies as provided under Code of Criminal Procedure or any other statute. There is no warrant to take any further steps in this writ petition. The writ petition is accordingly disposed of. No costs.

Sd/-
S.R. Nayak
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

subbu